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Attorneys for Defendant  
GOOGLE INC.

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

ORACLE AMERICA, INC.,  
  
Plaintiff,  
  
v.  
  
GOOGLE INC.,  
  
Defendant.

Case No. 3:10-cv-03561 WHA  
  
GOOGLE INC.'S BILL OF COSTS  
  
Dept.: Courtroom 8, 19<sup>th</sup> Floor  
Judge: Hon. William Alsup

**BILL OF COSTS**

Final Judgment having been entered on June 20, 2012 [Dkt. 1211] in favor of Defendant Google Inc. ("Google"), as to the relief sought by Plaintiff Oracle America, Inc. ("Oracle") in this litigation, the Clerk is hereby requested to tax the following as costs pursuant to 28 U.S.C. § 1920 and Civil L.R. 54-3.

Fees for exemplification and the costs of making copies of any materials where the copies are necessarily obtained for use in the case.	\$2,900,349	
Fees for printed or electronically recorded transcripts necessarily obtained for use in the case.	\$143,341	
Compensation of the court-appointed expert.	\$986,978	
<b>TOTAL</b>	<b>\$4,030,669</b>	

This Bill of Costs is supported by the Declaration of Kristin Zmrhal (Exhibit A hereto), an Itemized Bill of Costs (Exhibit B hereto), and corresponding invoices (Exhibit C hereto).

Dated: July 5, 2012

KEKER & VAN NEST LLP

By: /s/ Robert A. Van Nest  
ROBERT A. VAN NEST

Attorneys for Defendant  
GOOGLE INC.

# **EXHIBIT A**

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13 Attorneys for Defendant  
14 GOOGLE INC.

15 UNITED STATES DISTRICT COURT  
16 NORTHERN DISTRICT OF CALIFORNIA  
17 SAN FRANCISCO DIVISION

18 ORACLE AMERICA, INC.,  
19 Plaintiff,  
20 v.  
21 GOOGLE INC.,  
22 Defendant.

Case No. 3:10-cv-03561 WHA

DECLARATION OF KRISTIN ZMRHAL IN  
SUPPORT OF GOOGLE'S BILL OF COSTS

Dept.: Courtroom 8, 19<sup>th</sup> Floor  
Judge: Hon. William Alsup

1 I, Kristin Zmrhal, declare as follows:

2 1. I am a Project Manager of Discovery Support at Google Inc. ("Google"). I submit  
3 this declaration in support of Google's Bill of Costs. I managed Google's document collection  
4 and production in the above-captioned case. I have knowledge of the facts set forth herein, and if  
5 called to testify as a witness thereto could do so competently under oath.

6 2. On June 20, 2012, the Court entered Final Judgment in this matter. Dkt. 1211. As  
7 reflected in the Final Judgment, Google prevailed on a substantial part of the litigation. Plaintiff  
8 Oracle America, Inc. ("Oracle") recovered none of the relief it sought in this litigation.  
9 Accordingly, Google is the prevailing party and is entitled to recover costs pursuant to Fed. R.  
10 Civ. P. 54(d) and 17 U.S.C. § 505.

11 3. I have reviewed Google's Bill of Costs and the invoices submitted therewith.

12 4. The costs included in Google's Bill of Costs are correctly stated and were  
13 necessarily incurred in this action, and the services for which fees have been charged were  
14 actually and necessarily performed. Further, the items in Google's Bill of Costs are fairly  
15 attributable to the claims asserted by Oracle in this litigation and are recoverable by Google under  
16 28 U.S.C. § 1920, Civil Local Rule 54-3, and relevant case law. *Parrish v. Manatt, Phelps &*  
17 *Phillips, LLP*, No. C 10-03200 WHA, 2011 WL 1362112, at \*2 (N.D. Cal. April 11, 1011) (J.  
18 Alsup) ("The reproduction costs defendants incurred in collecting, reviewing, and preparing client  
19 documents for production were necessary expenditures made for the purpose of advancing the  
20 investigation and discovery phases of the action. As such, they are properly taxable."); *Service*  
21 *Emp. Int'l Union v. Rosselli*, No. C 09-00404 WHA, 2010 WL 4502176, at \*3 (N.D. Cal., Nov. 1,  
22 2010) (J. Alsup) (rejecting plaintiffs' argument that "the cost of trial exhibits and electronic  
23 discovery production should not be recoverable," and overruling plaintiffs' objections to  
24 deposition-related costs such as "'rough disk' fees, 'expedited' services charges, parking  
25 reimbursements, charges for court reporter 'waiting time,' charges for court reporter 'before/after  
26 hours,' delivery costs, appearance and travel fees, 'video digitizing to DVD[s],' and 'video  
27 synchronizing'"); *In re Online DVD Rental Antitrust Litig.*, No. M 09-2029 PJH, 2012 WL  
28 1414111, at \*1 (N.D. Cal. 2012) ("The court declines to disallow remaining costs on the grounds

argued by plaintiffs (e.g., TIFF conversion costs; copying/"blowback" costs purportedly not documented; document productions purportedly not delivered; professional fees re visual aids.")); *Petrolia Nasional Berhad v. GoDaddy.com, Inc.*, No. C 09-5939 PJH, 2012 WL 1610979, at \*4 (N.D. Cal., May 8, 2012) (allowing recovery of costs that were "necessary to convert computer data into a readable format," because such costs were "an essential component of '[t]he cost of reproducing disclosure or formal discovery documents' used in the case, as permitted under Civil Local Rule 54-3(d)(2)."); *In re Ricoh Co., Ltd. Patent Litig.*, 661 F.3d 1361, 1365 (Fed. Cir. 2011) ("Thus, the costs of producing a document electronically can be recoverable under section 1920(4).").

5. True and correct copies of the invoices supporting Google's Bill of Costs are attached as Exhibit C to the Bill of Costs.

6. The costs included in Google's Bill of Costs for reproducing documents for use in the case were necessary and related to (a) disclosure and other formal discovery obligations, (b) exhibits to depositions, and (c) compensation for court-appointed experts.

a. Google collected documents from over 86 custodians for this case. Google delivered to its document vendor over 97 million documents for electronic processing and review. Pursuant to Google's obligations under the parties' Joint ESI Agreement [Dkt. 67], Google's document vendor filtered custodial documents for production by running agreed-upon key-term searches, and converted documents to TIFF images for production. Over the course of this litigation, Oracle served nine separate Requests for Production of Documents, with 204 individual document requests. Google electronically produced over 3.3 million documents in response to Oracle's requests, and Google's 60 separate document productions span over 20 million pages.

b. Sixty witnesses were deposed in this case, and several witnesses were deposed more than once.

c. The Court appointed Dr. James R. Kearl to serve as a Rule 706 damages expert in this case. Dkt. 374. Pursuant to court-order, [Dkt. 413], Google paid one-half of Dr. Kearl's fees and expenses in this matter.

1 I declare under penalty of perjury that the foregoing is true and correct and that this  
2 declaration was executed at 11:30 AM in Chicago, Illinois on July 3, 2012.  
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4 By:   
5 KRISTIN ZMRHAL  
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# **EXHIBIT B**



CONDITIONALLY  
FILED UNDER  
SEAL

# **EXHIBIT C**

CONDITIONALLY  
FILED UNDER  
SEAL